

regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the U.S. Government and is headquartered at One Constitution Square, 1275 First Street, N.E, Washington, DC 20417. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On June 15, 2012, Plaintiff submitted a FOIA request to Defendant, by email and certified mail, seeking access to the following public records:

All videos produced by GSA Region 2 employees.

The request specified that it included, but was not limited to, all videos produced in connection with GSA's Linking Budget to Performance Initiative. It also specified that it was seeking videos in which GSA employee Ben Kochanski appears. It further specified that it was seeking all videos that have at any time been available on the website of GSA Region 2 within the timeframe of the request, which was from December 31, 2010 through the date of the request.

6. GSA acknowledged receipt of Plaintiff's FOIA request in an e-mail message on June 19, 2012 (assigning a control GSA FOIA number 223447). On July 13, 2012, GSA sent an appeal to Plaintiff denying the requested fee waiver, which Plaintiff subsequently appealed. By a letter dated February 5, 2013, GSA denied the appeal but agreed to waive any fee for the search. The letter then inquired as to whether Plaintiff wished for GSA to "proceed with this request."

7. By a letter dated February 8, 2013, Plaintiff informed GSA that it wished for GSA to proceed with the request. Since that date, Plaintiff has not received a determination in response to its request or any other communications from GSA in regard to the request.

8. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), GSA was required to determine whether to comply with Plaintiff's request within twenty (20) working days after receipt of the request and to notify Plaintiff immediately of its determination, the reasons therefor, and the right to appeal any adverse determination. Even if Plaintiff's request was tolled during the time which Plaintiff appealed the fee waiver denial, GSA was required to begin processing the request once it received the confirmation it had requested from Plaintiff that Plaintiff wished to proceed with the request. Accordingly, GSA was required to have responded to Plaintiff's request no later than twenty (20) working days after Plaintiff's confirmation on February 8, 2013.

9. As of the date of this Complaint, GSA has failed to: (i) determine whether to comply with Plaintiff's request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested record, or otherwise demonstrate that the requested records are exempt from production.

10. Because GSA failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its request, pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.

12. GSA is unlawfully withholding public records requested by Plaintiff pursuant to 5 U.S.C. § 552.

13. Plaintiff is being irreparably harmed by reason of GSA's unlawful withholding of the requested public records, and Plaintiff will continue to be irreparably harmed unless GSA is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order GSA to conduct a search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order GSA to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: May 23, 2013

Respectfully submitted,

JUDICIAL WATCH, INC.

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